

**IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION**

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|-----------------------------------|---|--|
| WILLIAM LANIER ELLIS, SR., |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| v. |) | CIVIL ACTION NO. 3:08-cv-55-WKW |
| |) | |
| TOMMY BOSWELL, |) | |
| |) | |
| Defendant. |) | |

ORDER

On June 2, 2008, the Magistrate Judge filed a Recommendation (Doc. # 16) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge, it is ORDERED that:

1. The Recommendation of the Magistrate Judge (Doc. # 3) is ADOPTED;
2. The defendant's motion for summary judgment (Doc. # 10) is granted to the extent that defendant seeks dismissal of this case due to the plaintiff's failure to exhaust an available administrative remedy;
3. This case is DISMISSED without prejudice in accordance with the provisions of 42 U.S.C. §1997e(a) for the plaintiff's failure to exhaust an administrative remedy available to him during his confinement in the Russell County Jail.

An appropriate judgment will be entered.

Done this 11th day of July, 2008.

/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE